

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH VOLFMAN, on behalf of himself and
all others similarly situated,

Plaintiff,

-against-

WINNIE'S NYC LLC, et al.,

Defendants.

24-CV-0264 (PAE) (RFT)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge:

The Complaint was filed on January 12, 2024 (*see* ECF 1), and the filings on the docket indicate that Defendants Winnie's NYC LLC d/b/a/ Dr. Clark and 104 Bayard St. Corp. ("Defendants") have not yet been properly served. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).

The time to serve the complaint on Defendants has expired. If Defendants have been served, Plaintiff is directed to promptly file proof of service on the docket.

If Defendants have not been served, Plaintiff is notified that in accordance with Rule 4(m), it is my intention to recommend that Judge Engelmayer dismiss the claims against Defendants. If Plaintiff wishes to move for a nunc pro tunc extension of the time for service on

Defendants, any such motion must be filed on or before **April 30, 2024**, must show good cause for the extension, and must include a complete description under oath of all efforts made to date to effectuate service on Defendants. In addition, the application to extend the time for service must comply with the Local Rules of the United States District Court for the Southern District of New York, including Local Rules 6.1 and 7.1. If Defendants' addresses are known, service of the notice of motion and accompanying papers should be made by mail on Defendants. If no such motion is filed by **April 30, 2024**, in accordance with this Order, I will issue a report and recommendation that Judge Engelmayer dismiss the claims against Defendants.

DATED: April 17, 2024
New York, New York

SO ORDERED.



ROBYN F. TARNOFSKY

United States Magistrate Judge